

§ 426h. Repealed. Pub. L. 110–114, title II, § 2038(b), Nov. 8, 2007, 121 Stat. 1100

Section, act Aug. 13, 1946, ch. 960, § 5, as added Pub. L. 104–303, title II, § 227(e)(1), Oct. 12, 1996, 110 Stat. 3700; amended Pub. L. 106–53, title V, § 581, Aug. 17, 1999, 113 Stat. 375; Pub. L. 109–234, title II, § 2305, June 15, 2006, 120 Stat. 456; Pub. L. 110–161, div. C, title I, § 113, Dec. 26, 2007, 121 Stat. 1944, related to national shoreline erosion control development and demonstration program.

A prior section 426h, acts Aug. 13, 1946, ch. 960, § 5, formerly § 4, 60 Stat. 1057; July 28, 1956, ch. 768, 70 Stat. 703; renumbered § 5, Oct. 12, 1996, Pub. L. 104–303, title II, § 227(d)(1), 110 Stat. 3700, defined the word “shores” as used in sections 426e to 426h of this title, prior to repeal by Pub. L. 104–303, title II, § 227(e)(1), Oct. 12, 1996, 110 Stat. 3700.

§ 426h–1. Definitions

In sections 426e and 426f to 426h–1 of this title, the following definitions apply:

(1) Erosion control program

The term “erosion control program” means the national shoreline erosion control development and demonstration program established under this section.

(2) Secretary

The term “Secretary” means the Secretary of the Army.

(3) Separable element

The term “separable element” has the meaning provided by section 2213(f) of this title.

(4) Shore

The term “shore” includes each shoreline of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith.

(5) Shore protection project

The term “shore protection project” includes a project for beach nourishment, including the replacement of sand.

(Aug. 13, 1946, ch. 960, § 6, as added Pub. L. 104–303, title II, § 227(e)(1), Oct. 12, 1996, 110 Stat. 3702.)

§ 426i. Shore damage prevention or mitigation

(a) In general

The Secretary of the Army is authorized to investigate, study, plan, and implement structural and nonstructural measures for the prevention or mitigation of shore damages attributable to Federal navigation works and shore damage attributable to the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway, if a non-Federal public body agrees to operate and maintain such measures, and, in the case of interests in real property acquired in conjunction with nonstructural measures, to operate and maintain the property for public purposes in accordance with regulations prescribed by the Secretary.

(b) Cost sharing

The costs of implementing measures, including a study, shall be cost-shared in the same proportion as the cost-sharing provisions applicable to construction of the project causing the shore damage.

(c) Requirement for specific authorization

No such project shall be initiated without specific authorization by Congress if the Federal first cost exceeds \$10,000,000.

(d) Coordination

The Secretary shall—

(1) coordinate the implementation of the measures under this section with other Federal and non-Federal shore protection projects in the same geographic area; and

(2) to the extent practicable, combine mitigation projects with other shore protection projects in the same area into a comprehensive regional project.

(e) Reimbursement for feasibility studies

Beginning on December 16, 2016, in any case in which the Secretary implements a project under this section, the Secretary shall reimburse or credit the non-Federal interest for any amounts contributed for the study evaluating the damage in excess of the non-Federal share of the costs, as determined under subsection (b).

(Pub. L. 90–483, title I, § 111, Aug. 13, 1968, 82 Stat. 735; Pub. L. 99–662, title IX, §§ 915(f), 940, Nov. 17, 1986, 100 Stat. 4191, 4199; Pub. L. 106–53, title II, § 214, Aug. 17, 1999, 113 Stat. 291; Pub. L. 113–121, title I, § 1030(c), June 10, 2014, 128 Stat. 1232; Pub. L. 114–322, title I, § 1169, Dec. 16, 2016, 130 Stat. 1671.)

AMENDMENTS

2016—Subsec. (b). Pub. L. 114–322, § 1169(1), substituted “measures, including a study, shall be cost-shared in the same proportion as the cost-sharing provisions applicable to construction of the project” for “measures under this section shall be cost-shared in the same proportion as the cost-sharing provisions applicable to the project”.

Subsec. (e). Pub. L. 114–322, § 1169(2), added subsec. (e). 2014—Subsec. (c). Pub. L. 113–121 substituted “\$10,000,000” for “\$5,000,000”.

1999—Pub. L. 106–53 designated first sentence as subsec. (a), inserted heading, and inserted “and shore damage attributable to the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway” after “navigation works”, designated second sentence as subsec. (b) and inserted heading, and designated third sentence as subsec. (c), inserted heading, and substituted “\$5,000,000” for “\$2,000,000”, and added subsec. (d).

1986—Pub. L. 99–662, § 940, amended section generally. Prior to amendment, section read as follows: “The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, study, and construct projects for the prevention or mitigation of shore damages attributable to Federal navigation works. The cost of installing, operating, and maintaining such projects shall be borne entirely by the United States. No such project shall be constructed without specific authorization by Congress if the estimated first cost exceeds \$2,000,000.”

Pub. L. 99–662, § 915(f), substituted “\$2,000,000” for “\$1,000,000”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 915(f) of Pub. L. 99–662 not applicable to any project under contract for construction on Nov. 17, 1986, see section 915(i) of Pub. L. 99–662, set out as a note under section 426g of this title.

§ 426i–1. Repealed. Pub. L. 113–121, title I, § 1014(c)(2), June 10, 2014, 128 Stat. 1222

Section, Pub. L. 102–580, title II, § 206, Oct. 31, 1992, 106 Stat. 4828; Pub. L. 104–303, title II, § 227(c)(2), Oct. 12,

1996, 110 Stat. 3700, related to construction of shoreline protection projects by non-Federal interests.

§ 426i-2. National coastal data bank

(1) Establishment of data bank

Not later than 2 years after August 17, 1999, the Secretary shall establish a national coastal data bank containing data on the geophysical and climatological characteristics of the shores of the United States.

(2) Content

To the extent practicable, the national coastal data bank shall include data regarding current and predicted shore positions, information on federally authorized shore protection projects, and data on the movement of sand along the shores of the United States, including impediments to such movement caused by natural and manmade features.

(3) Access

The national coastal data bank shall be made readily accessible to the public.

(Pub. L. 106-53, title II, § 215(d), Aug. 17, 1999, 113 Stat. 293.)

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106-53, set out as a note under section 2201 of this title.

§ 426j. Repealed. Pub. L. 110-114, title II, § 2037(b)(1), Nov. 8, 2007, 121 Stat. 1096

Section, Pub. L. 94-587, § 145, Oct. 22, 1976, 90 Stat. 2931; Pub. L. 99-662, title IX, § 933, Nov. 17, 1986, 100 Stat. 4197; Pub. L. 100-676, § 35, Nov. 17, 1988, 102 Stat. 4031; Pub. L. 102-580, title II, § 207, Oct. 31, 1992, 106 Stat. 4829; Pub. L. 106-53, title II, § 217(a), Aug. 17, 1999, 113 Stat. 294, related to placement on State beaches of sand dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches.

EXISTING PROJECTS

Pub. L. 110-114, title II, § 2037(b)(2), Nov. 8, 2007, 121 Stat. 1096, provided that: “The Secretary [of the Army] may complete any project being carried out under section 145 of the Water Resources Development Act of 1976 [this section] on the day before the date of enactment of this Act [Nov. 8, 2007].”

§ 426k. Five year demonstration program to temporarily increase diversion of water from Lake Michigan at Chicago, Illinois

(a) Authorization of Secretary of the Army; purpose; amounts of increase; incremental accomplishment; effects on Illinois Waterway; responsibilities for development, implementation, and supervision

In order to alleviate water damage on the shoreline of Lake Michigan and others of the Great Lakes during periods of abnormally high water levels in the Great Lakes, and to improve the water quality of the Illinois Waterway, the Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a five-year demonstration program to temporarily increase the diversion of water from Lake Michigan at Chicago, Illinois, for the purpose of testing the practicability of increasing the average annual diversion from the present limit of three thousand two hundred cubic feet per second to

ten thousand cubic feet per second. The demonstration program will increase the controllable diversion by various amounts calculated to raise the average annual diversion above three thousand two hundred cubic feet per second up to ten thousand cubic feet per second. The increase in diversion rate will be accomplished incrementally and will take into consideration the effects of such increase on the Illinois Waterway. The program will be developed by the Chief of Engineers in cooperation with the State of Illinois and the Metropolitan Sanitary District of Greater Chicago. The program will be implemented by the State of Illinois and the Metropolitan Sanitary District of Greater Chicago under the supervision of the Chief of Engineers.

(b) Establishment of monthly controllable diversion rates; average annual level of Lake Michigan and total diversion for succeeding accounting year

During the demonstration program a controllable diversion rate will be established for each month calculated to establish an annual average diversion from three thousand two hundred cubic feet per second to not more than ten thousand cubic feet per second. When the level of Lake Michigan is below its average level, the total diversion for the succeeding accounting year shall not exceed three thousand two hundred cubic feet per second on an annual basis. The average level of Lake Michigan will be based upon the average monthly level for the period from 1900 to 1975.

(c) River stages approaching bankfull conditions on Illinois Waterway or Mississippi River or further increased diversion adversely affecting St. Lawrence Seaway water levels: limitation on diversion

When river stages approach or are predicted to approach bankfull conditions at the established flood warning stations on the Illinois Waterway or the Mississippi River, or when further increased diversion of water from Lake Michigan would adversely affect water levels necessary for navigational requirements of the Saint Lawrence Seaway in its entirety throughout the Saint Lawrence River and Great Lakes-Saint Lawrence Seaway, water shall not be diverted directly from Lake Michigan at the Wilmette, O'Brien, or Chicago River control structures other than as necessary for navigational requirements.

(d) Additional study and demonstration program: determination of effects on Great Lakes levels and Illinois Waterway water quality and susceptibility to additional flooding and investigation of other adverse or beneficial impacts; report and recommendations to Congress

The Chief of Engineers shall conduct a study and a demonstration program to determine the effects of the increased diversion on the levels of the Great Lakes, on the water quality of the Illinois Waterway, and on the susceptibility of the Illinois Waterway to additional flooding. The study and demonstration program will also investigate any adverse or beneficial impacts which result from this section. The Chief of Engineers, at the end of five years after October 22,